

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

944D0698

HOUSE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB1301** - 2/9/00

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

Introduced by: Representatives Jaspers, Duenwald, Hanson, Juhnke, Napoli, and Wetz and
Senators Symens and Benson

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to meandered and
2 unmeandered lakes.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 43-17-2 be amended to read as follows:

5 43-17-2. Unless the grant under which the land is held indicates a different intent, the owner
6 of the upland, if it borders upon a ~~navigable~~ meandered lake or navigable stream, takes to the
7 edge of the lake or stream at low water mark. All navigable ~~rivers~~ streams and meandered lakes
8 are public highways within fifty feet landward from the water's nearest edge, ~~provided that,~~
9 However, the outer boundary of such public highway may not expand beyond the ordinary high
10 water mark and may not contract within the ordinary low water mark, ~~and~~ subject to the
11 provisions of §§ 43-17-29, 43-17-31, 43-17-32, and 43-17-33.

12 Section 2. That chapter 43-17 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 There is no public right to or interest in any unmeandered lake or any unnavigable stream.
15 All rights and interests vest with the owner of the land beneath any unmeandered lake or

1 un navigable stream.

2 Section 3. That § 43-17-29 be amended to read as follows:

3 43-17-29. If ~~any~~ the water level rises above the ordinary high water mark of a ~~navigable~~
4 meandered lake, the right of the public to the enjoyment of the entire lake ~~may is not be~~ limited;
5 ~~except that. However, the public may only~~ access to the lake ~~shall be~~ by public right-of-way or
6 by permission of the riparian landowner and is subject to the provisions of §§ 43-17-2, 43-17-31,
7 43-17-32, and 43-17-33.

8 Section 4. That § 43-17-31 be amended to read as follows:

9 43-17-31. The provisions of §§ 43-17-2 and 43-17-29 notwithstanding, any landowner may
10 deny public access to ~~his taxable~~ private real property, including inundated property, if such
11 property has been inundated for a period of at least three years, borders the water's edge, and
12 lies above the ordinary high water mark of a ~~navigable~~ meandered lake that includes at least five
13 thousand acres of inundated land in private ownership. A landowner who chooses to deny access
14 to ~~his~~ inundated lake property pursuant to this section shall request the Department of Game,
15 Fish and Parks to mark the boundaries of the affected property; and the department shall, upon
16 request, clearly mark the restricted area so that the markings are plainly visible and
17 understandable to ~~a user~~ anyone interested in the use of the lake. This section does not apply to
18 public highways that are maintained for use by motor vehicles.

19 Section 5. That § 43-17-32 be amended to read as follows:

20 43-17-32. Any landowner may deny a state agency the use of ~~his taxable~~ private real
21 property, including inundated property, if such property has been inundated for a period of at
22 least three years, borders the water's edge, and lies above the ordinary high water mark of a
23 ~~navigable~~ meandered lake that includes at least five thousand acres of inundated land in private
24 ownership. Any state agency may allow public access for stated purposes to ~~taxable~~ private real
25 property if the landowner has given ~~his~~ permission for such access and use and if all taxes paid

1 by the landowner on the property for the period in which the property is open to public use are
2 reimbursed by the state agency. This section does not apply to public highways that are
3 maintained for use by motor vehicles.

4 Section 6. That chapter 43-17 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 For the purposes of this chapter, a lake is meandered if, during the survey of this state,
7 undertaken by the federal government for purposes of platting out the sections of land available
8 for sale and use, the lake's existence was indicated on the survey maps by a meander line to
9 delineate the sinuosities of the banks of the lake.

1 **BILL HISTORY**

2 1/24/00 First read in House and referred to committee assignment waived. H.J. 203

3 1/25/00 Referred to Agriculture and Natural Resources.

4 2/5/00 Scheduled for Committee hearing on this date.

5 2/8/00 Agriculture and Natural Resources Hog Housed.

6 2/8/00 Scheduled for Committee hearing on this date.

7 2/8/00 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 7, NAYS 5.

8 H.J. 479